TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AN ORDER approving the Application of North Texas Municipal Water District For Municipal Solid Waste Permit No. MSW-2294; TCEQ Docket No. 2002-0745-MSW; SOAH Docket No. 582-02-3386

On October 8, 2003, the Texas Commission on Environmental Quality[1] (Commission) considered the Application of North Texas Municipal Water District (NTMWD or Applicant) for Municipal Solid Waste Permit No. MSW-2294 (the Application). NTMWD seeks authority to construct and operate a municipal solid waste landfill, called the 121 Regional Disposal Facility (121 RDF), to be located in Collin County, Texas. The application was presented to the Commission with a Proposal for Decision by Robert F. Jones, Jr., Administrative Law Judge with the State Office of Administrative Hearings. A preliminary hearing was conducted concerning the application on August 13, 2002, and an evidentiary hearing on the application was convened on March 10, 2003, in the courtroom of County Court at Law #7, 1800 North Graves, McKinney, Collin County, Texas. The hearing ended on March 13, 2003, and the record closed on April 18, 2003.

The following were designated as parties to the proceeding: Applicant NTMWD, represented by Kerry Russell and Angela K. Moorman; the Office of Public Interest Counsel (OPIC), represented by Mary Alice Boehm; and numerous Protestants represented by Richard W. Lowerre, specifically (1) Defenders of Americans' Voice in Decision-Making, Inc. (D.A.V.I.D.) and its members; (2) Mr. Wesley Burgess, Individually and for the Burgess Family;[2] (3) Ms. Rebecca Rollins Bona, Individually and for the Rollins Family Trust; (4) Mr. A.B. Roper, Individually and for the Roper Family; (5) Mr. John Airhart, Individually and for Ms. Kimberly Airhart Monk and Ms. Modene

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[1] The Application was filed with the Texas Natural Resource Conservation Commission or TNRCC, which was subsequently renamed the TCEQ. For convenience sake, all references are to either the Commission or the TCEQ.

[2] Mr. Burgess and his family subsequently withdrew their participation.

5. NTMWD operates a Regional Solid Waste Disposal System (Solid Waste System) in the general area of the East Fork of the Trinity River. NTMWD currently operates two landfills—the McKinney Landfill and the Maxwell Creek Landfill—and three transfer stations—the Lookout Drive Transfer Station in the City of Richardson, Texas, and the Parkway and Custer transfer stations in the City of Plano, Texas.

6. The Solid Waste System serves the member cities of Richardson, Allen, Frisco, McKinney, and Plano, and provides solid waste disposal services to other participating, but non-member cities, Collin County, private contractors, and area citizens. Such solid waste disposal services are provided at NTMWD's McKinney Landfill.

7. The McKinney Landfill is the designated landfill for Collin County, Texas.

8. 121 RDF will replace the McKinney Landfill, which is preparing for final closure. Authorized waste will be accepted at 121 RDF at an initial rate of approximately 1,700 tons per day, six days per week, or approximately 500,000 tons of waste per year.

9. The permit boundary of 121 RDF encompasses 673.49 acres of NTMWD Property.

10. The disposal footprint of 121 RDF will encompass approximately 450 acres. The buffer zone is a minimum of 300 feet wide where the permit boundary and the property boundary are coincident. The buffer zone between the permit boundary and the footprint of the landfill is a minimum of 150 feet wide where the permit boundary is inside the property boundary.

11. The total volume of 121 RDF will be 142 million cubic yards. The total landfill volume available for waste disposal is approximately 110 million cubic yards or 60 million tons.

12. The site life for 121 RDF is estimated to be in excess of forty years.

20. Under the proposed permit, 121 RDF will not accept any wastes classified as hazardous by the Commission or the U.S. Environmental Protection Agency (EPA), as defined in 40 C.F.R. § 258.20 and part 261, polychlorinated biphenyl (PCB) wastes as defined in 40 C.F.R. § 258.20 and parts 261 and 761, radioactive wastes, wastes transported in bulk containers, liquid wastes, used oil filters, used oil, and lead acid batteries.

B. Procedural and Notice Issues

21. The Application was deemed administratively complete by the Commission on May 10, 2001.

22. The *Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit, Proposed Permit No. 2294* was published in both the *Plano Star Courier*, the newspaper with the largest circulation published in Collin County, and the *Dallas Morning News,* the newspaper with the largest circulation in Collin County, on May 31, 2001. It was also published in the *McKinney Courier Gazette,* a newspaper published in Collin County and designated as the official newspaper for public notices by the cities of Melissa and Anna, on May 31, June 1, and June 3, 2001.

23. A Commission-sponsored public meeting was held on August 14, 2001, in the City of Melissa, Collin County, Texas.

24. The *Notice of Public Meeting on an Application for Municipal Solid Waste Permit No. 2294* was published on July 26, August 2, and August 9, 2001, in the *Plano Star Courier*, the newspaper with the largest circulation published in Collin County, the *Dallas Morning News*, the newspaper with the largest circulation in Collin County, and the *McKinney Courier Gazette,* a newspaper published in Collin County and designated as the official newspaper for public notices by the cities of Melissa and Anna.

30. The following were named as parties to this proceeding:

a. NTMWD.

b. The Office of Public Interest Counsel (OPIC) of the Commission.

c. Defenders of Americans' Voice in Decision-Making, Inc. (D.A.V.I.D.) and its members; Mr. Wesley Burgess, Individually and for the Burgess Family;[3] Ms. Rebecca Rollins Bona, Individually and for the Rollins Family Trust; Mr. A.B. Roper, Individually and for the Roper Family; Mr. John Airhart, Individually and for Ms. Kimberly Airhart Monk and Ms. Modene Carroll; and Ms. Susan Clark, Individually and for the Helen Clark Family Trust (collectively "Protestants").

d. Other persons who were named, but subsequently withdrew, as parties were: the Galbraith Trust; Mr. Jim Jake Templin, Individually and for Mr. William L. Templin and Ms. Joyce Roper Templin; the Stoney Point Cemetery Association; the Brinlee Cemetery Association; Mr. John Carter; R.A. Properties; Pate Rehabilitation, Inc.; Mr. Thomas Reaves, Individually and for Ms. Margaret Reaves and Mr. George Reaves; Mr. Byron Stewart; and Mr. John Stewart, Individually and for Ms. Deby Stewart.

e. The Executive Director (ED) of the Commission filed notice on August 9, 2002, indicating that it did not intend to participate as a party to this proceeding.

31. The contested case hearing on the Application was conducted March 10–13, 2003, in the City of McKinney, Texas. The evidentiary record closed on April 18, 2003.

[3] Pursuant to a letter dated March 4, 2003, Mr. Burgess has requested to withdraw as a party to the proceeding. No Order dismissing Mr. Burgess as a party has been issued by the Administrative Law Judge.

pipeline, and utility easements within or adjacent to 121 RDF; and any archaeological sites, historical sites, and sites with exceptional aesthetic qualities adjacent to 121 RDF.

37. The Application identifies the location of 121 RDF on the Texas Department of Transportation's (TxDOT) General Highway Map for Collin County, Texas.

38. The Application contains a U.S. Geological Survey 7.5-minute quadrangle general topographic map, identifying the location of 121 RDF.

39. The Application contains a list of adjacent and potentially affected landowners that is keyed to the landownership map. The map shows all property owners within 500 feet of 121 RDF.

40. The Application contains a metes and bounds description, as well as a map depicting the metes and bounds description, of 121 RDF that is signed and sealed by a registered professional land surveyor.

41. The Application contains deed information for NTMWD Property based on Collin County property records.

42. The Application includes a final contour map for 121 RDF depicting the final contours of the completed 121 RDF at the top of the final cover.

43. The Application includes fill cross-sections showing the top of the proposed fill, maximum elevation of the proposed fill, top of the final cover, top of the wastes, existing ground, bottom of the excavations, side slopes of trenches and fill areas, landfill gas monitoring probes, and subsurface water monitoring wells. There are sufficient fill cross-sections, both latitudally and longitudally, so as to accurately depict the existing and proposed depths of all fill at 121 RDF.

effects on the health, welfare, environment, or physical property of nearby residents and property owners.

50. The Application was signed by Mr. James M. Parks, P.E., Executive Director of NTMWD.

51. The ED issued Final Draft Permit No. MSW-2294 on May 24, 2002.

52. The ED issued the required Summary of Compliance History on May 24, 2002.

53. The ED filed its *Response to Public Comment* on March 10, 2003.

CONTESTED ISSUE FINDINGS

D. Site Operating Plan

54. The Application contains a Site Operating Plan (SOP) addressing the factors listed in 30 TEX. ADMIN. CODE §§ 330.57, 330.111 through 330.134, and 330.136 through 330.139.

55. If the permit is issued, the Site Development Plan, SOP, Final Closure Plan, Post-Closure Care Plan, SLQCP, GWSAP, LGMP, Leachate and Contaminated Water Plan, Subsurface Water and Surface Water Protection Plans and Drainage Plan, Erosion and Sedimentation Control Plan, cost estimate and financial assurance documentation, and other related or required plans or documents listed in 30 TEX. ADMIN. CODE § 330.111 will be part of the Site Operating Record of 121 RDF and will become operational requirements for 121 RDF.

56. The Site Operating Record will be maintained at 121 RDF, NTMWD's office in the City of Wylie, or an alternate location, if requested and approved by the ED. All original documents will be maintained at NTMWD's office in the City of Wylie.

63. A large/bulky item recycling area will be designated near the 121 RDF entrance for the temporary storage of white goods and other recyclable items.

64. Vectors such as flies, birds, and rodents will be controlled at 121 RDF by minimizing the size of the working face, properly compacting waste, and covering waste with soil at the end of each working day. The SOP also provides that approved pesticides or other means of control will be used, if necessary.

65. The SOP contains procedures to ensure that regulated hazardous waste and PCBs will not be accepted at 121 RDF.

66. To prevent the disposal of regulated hazardous waste at 121 RDF, the SOP requires that NTMWD screen wastes, provide personnel training, reject haulers carrying unauthorized wastes, and perform random sampling.

67. The SOP specifies procedures to ensure that special waste, as that term is defined at 30 TEX. ADMIN. CODE § 330.2, will not be accepted at 121 RDF until prior written approval from the Commission has been obtained, except with respect to certain special wastes the acceptance of which is authorized in accordance with 30 TEX. ADMIN. CODE § 330.136(b).

68. The SOP specifies procedures for random inspections of incoming waste.

69. The SOP contains procedures related to the unloading of wastes, specifying that the Gate Attendant will monitor all incoming loads and record the vehicle number and weight; signs or authorized personnel will direct haulers and citizens to the appropriate unloading area; and Spotters and Equipment Operators will monitor the unloading of the waste at the working face, which will be confined to as small an area as practical.

78. The SOP prohibits scavenging.

79. Salvaging of recycled materials will be limited to NTMWD personnel and will not be allowed to interfere with prompt sanitary disposal of solid waste or to create a public health nuisance.

80. Salvaging of special wastes, pesticides, rodenticides, fungicides, and herbicides containers, as well as Class I industrial waste, is prohibited.

81. The SOP provides that the ponding of water over waste at 121 RDF, regardless of its origin, will be prevented. Ponding water that occurs in the active portion of a landfill unit or on a closed unit will be eliminated as quickly as possible, and the area in which the ponding occurred will be filled and/or re-graded within seven days of occurrence, weather permitting. Contaminated water that collects on the working face will be allowed to infiltrate the waste. Should contaminated water penetrate the waste column, it will be collected as leachate and managed accordingly.

82. The SOP provides that a minimum of 1,000 cubic yards of soil will be stockpiled within 2,500 feet of the working face to aid in fighting fires. NTMWD will, at all times, maintain sufficient equipment for moving the soil stockpile to the working face. Landfill fires will be extinguished by smothering with cover material spread by a dozer or other suitable equipment.

83. The SOP contains specific fire-fighting and fire prevention procedures, including procedures to be followed to prevent fires and steps to be followed to control fires. All equipment will be equipped with fire extinguishers.

84. The SOP provides sufficient information as to the size of equipment to be used at 121 RDF.

93. In at least one past permitting order, regarding Permit No. MSW-1745B, the TCEQ has allowed deed-restricted drainage areas to be located outside of the permit boundary.

94. The designated drainage areas are not part of the 121 RDF facility, as the term is defined in 30 TEX. ADMIN. CODE § 330.2(48).

F. Alteration of Natural Drainage Patterns

95. Existing drainage patterns are as follows:

a. Almost all of the drainage from the 121 RDF site currently moves into the Brinlee Branch to the north or into the South Tributary to the south;

b. After the Brinlee Branch and South Tributary join, the Brinlee flows to the east into Sister Grove Creek, a tributary of Lake Lavon on the East Fork of the Trinity River;

c. In the southwest corner of the 121 RDF site, drainage flows west into Stiff Creek, and then into Sister Grove Creek;

d. In the Panhandle of the 121 RDF site, drainage flows into Stiff Creek, and then into Sister Grove Creek.

96. Post-development drainage patterns are expected to be similar to those currently existing.

97. A Surface Water Protection and Drainage Plan was prepared that demonstrates the pre-development and post-development conditions at 121 RDF. Drainage calculations and drainage design plans that contain the matters specified in 30 TEX. ADMIN. CODE §§ 330.55(b)(5) and 330.56(f) are included. The Surface Water Protection and Drainage Plan includes a discussion of drainage areas, the direction of drainage, the potential for flooding, drainage structures, and erosion and sedimentation control.

106. There are some discrepancies between the lag time calculations reflected in the HEC-1 (used to model existing conditions and the 100-year, 2-hour storm event) and those contained in the Application under the "summary of other calculations for existing conditions."

107. The differences between the lag times used in the HEC-1 and those contained in the Application are not significant and do not affect the validity of the conclusions drawn from the drainage calculations relied on by NTMWD.

108. Peak run-off flow rates are expected to increase at only two points—Design Points 4 and 5—as a result of 121 RDF.

109. The increase of peak flows at Design Points 4 and 5 will not cause an adverse impact downstream.

110. The landfill final cover drainage calculations demonstrate that 121 RDF is designed to convey run-off produced from a 25-year storm, to provide erosion protection, and to minimize sediment loss.

111. Run-off volumes during the critical storm event are expected to increase, as result of the development of 121 RDF, at only four measured locations—Design Points 5, 6, 11, and 12.

112. Increased run-off volume at Design Points 11 and 12 is insignificant in light of the relatively small volumes involved and given the fact that peak flows at those design points will actually decrease through the use of detention ponds.

113. The increased run-off volume at Design Points 5 and 6 is significant but is attributable to the increased size of the areas that will be drained at those design points.

dispose of wastes from industrial facilities that discharge storm water associated with industrial activity.

123. The 121 RDF drainage plan, including the detention pond, has been designed to reduce the peak run-off from the developed 121 RDF to pre-development flow rates. The outlet structure for the detention portion of the pond, also referred to as the principal spillway, is designed to convey the peak flow for the 100-year flood event.

124. The run-off volumes and peak flood flows under both pre-development and post-development conditions for Brinlee Branch and the South Tributary were calculated utilizing the USACE's HEC-1 run-off model. For describing the variation of rainfall with time in the HEC-1 model, a standard rainfall distribution, developed by the U.S. Soil Conservation Service (SCS) and referred to as the "Standard Emergency Spillway and Freeboard Hydrograph (Table 6)" distribution, was used.

125. Peak flow rates under both pre-development and post-development watershed conditions for drainage areas of less than 200 acres in size were calculated using the Rational Method.

G. Floodplain and Flood Issues

126. 121 RDF is not located within the limits of the regulatory 100-year floodplain as identified on the FEMA Map. A subtitle D Location Restriction Certification of Compliance for Floodplains, signed by Robert J. Brandes, Ph.D., P.E., is included in Parts I & II, Appendix I & II-E, of the Application.

127. To evaluate flooding conditions along Brinlee Branch and the South Tributary, an analysis of water surface profiles corresponding to the 100-year flood event was performed using the USACE's HEC River Analysis System (HEC-RAS) computer program.

134. 121 RDF is located in the East Fork Trinity River Basin in Collin County. Physically, 121 RDF is situated on an upland drainage divide between Brinlee Branch on the north and an unnamed tributary to Brinlee Branch on the south (South Tributary).

135. 121 RDF is located in a belt of Upper Cretaceous sedimentary rocks that crop out along the outer margin of the Gulf Coastal Plain in a physiographic province known as the Blackland Prairie. The Blackland Prairie comprises primarily poorly drained, low hydraulic conductivity clays.

136. The principal Cretaceous System rocks within the first 1,000 feet below the 121 RDF belong to two groups, the Austin Chalk and the Eagle Ford Shale. The Eagle Ford, the lower of the two groups at 121 RDF, is approximately 475 feet thick and is divided into two units, the Britton and the Arcadia Park.

137. The lower part of the Britton consists of moderately hard calcareous clay shale. In the upper part of the Britton, the shale is less calcareous and softer and contains limestone and claystone concretions.

138. The Arcadia Park consists of three parts. The lower part is clayey shale overlain by the middle part consisting of one to three feet of thin flaggy limestone. The upper part consists of clayey shale containing numerous calcareous concretions.

139. The base of the Eagle Ford at 121 RDF is at a depth of about 1,300 feet or about 650 feet below sea level.

140. A detailed discussion of the geology of 121 RDF is located in Part III, Site Development Plan, Attachment 4, Geology Report, of the Application.

148. The uppermost aquifer is the Woodbine Aquifer, approximately 1,300 feet below 121 RDF.

149. The intervening materials (confining layers) between 121 RDF and the Woodbine Aquifer consist of chalk and marl of the Austin Chalk and the underlying marl and shale of the Eagle Ford Shale. These materials are essentially impervious and there is little potential for water or any other fluids to move downward from 121 RDF to the Woodbine Aquifer.

150. Under 121 RDF, the Woodbine Aquifer is under artesian conditions, *i.e.*, the water level in a well drilled into the Woodbine Aquifer would rise above the top of aquifer, with the overlying Eagle Ford Shale acting as the upper confining layer.

151. Subsurface conditions at 121 RDF were evaluated using a Commission-approved Soil Boring Plan, which required a total of forty borings spaced on a grid of approximately 1,000 feet on a side. The borings were drilled by a licensed water well driller, and all borings were logged by the same senior professional geologist certified by the American Institute of Professional Geologists.

152. Field activities consisted of drilling, coring, logging, and grouting each borehole, geophysical logging, and setting temporary piezometers. Each of the boreholes was geophysically logged using an array of instruments, including: resistivity, spontaneous potential, natural gamma, caliper, porosity, and neutron density. In accordance with the approved Soil Boring Plan, the suite of geophysical logs selected was based on observations in the field during drilling and visual examination of the cores.

153. The data obtained from the soil borings are adequate to establish subsurface stratigraphy and to determine geotechnical properties of the soils and rocks beneath 121 RDF. Installation, abandonment, and plugging of the borings was accomplished in accordance with Commission rules.

160. A Soil and Liner Quality Control Plan (SLQCP) has been designed for 121 RDF by a licensed professional engineer to protect subsurface water. The SLQCP provides operating personnel guidance for assuring continuous protection of subsurface water.

161. The SLQCP specifies construction methods employing good engineering practices for compaction of the soil liner component of the composite liner system and addresses the installation and testing of the geosynthetic liner component.

162. The SLQCP details the excavation, examination, and dental work procedures; composite liner system, LCS, and final cover system construction methods and procedures, Quality Assurance/Quality Control (QA/QC); and reporting requirements, specifically SLERs and appropriate portions of the FMLERs.

163. A minimum of two feet of protective soil cover will be placed over the LCS/composite liner system. Permeable "chimneys" through the protective cover will be provided at a nominal 100-foot spacing to allow drainage into the LCS. The chimneys will be covered with rain flaps until waste is actually placed over the chimneys.

164. The leachate storage area is external to the fill area and will be monitored by direct observation. Leachate storage consists of three lined ponds into which the leachate from each of the three leachate collection header pipes can drain by gravity. The LCS is designed to maintain less than thirty centimeters or one foot of liquid head above the bottom liner.

165. The Application contains a Subsurface Water and Surface Water Protection Plan and Drainage Plan.

166. The Ground (Subsurface) Water Sampling and Analysis Plan (GWSAP) included in the Application defines procedures and techniques for subsurface water sample collection, preservation, shipment, analyses, chain-of-custody, and QA/QC procedures.

175. The GWSAP contained in the Application provides procedures for collecting representative samples from subsurface water monitoring wells and QA/QC procedures required to ensure valid analytical results. The GWSAP also includes methodology for evaluation of these results so that the occurrence of a statistically significant increase may be detected.

176. 121 RDF is not likely to adversely affect or result in a hazard to subsurface water.

177. NTMWD's proposed groundwater monitoring system is sufficient for detecting migration of contaminants from the 121 RDF into local groundwater and for protecting groundwater around the 121 RDF.

177A. NTMWD will monitor the efficiency of the groundwater protection measures at the121 RDF through the use of a monitoring system that uses monitoring wells located around the perimeter of the waste unit, daily inspection of the leachate discharge headers and storage ponds, and visual inspection of the east side of the 121 RDF where the floor of the excavation daylights to ensure detection of any contamination prior to it reaching the uppermost aquifer, and the use of standard dental work to ensure that contamination does not reach the Woodbine Aquifer.

177B. The groundwater monitoring system for the 121 RDF will be at least as protective of human health and the environment as a monitoring well system yielding representative samples from the Woodbine Aquifer. The proposed groundwater monitoring system is an acceptable alternative design pursuant to 30 TEX. ADMIN. CODE §§ 330.231(c).

I. Land Use Compatibility

178. The Application contains an existing conditions summary for the area near 121 RDF.

188. The nearest community to 121 RDF is the City of Melissa. The City of Melissa has experienced residential development northwest and southeast of its downtown area. Future growth is expected to occur along U.S. Highway 75 (US 75) west of downtown.

189. An estimated 85 residences are observed within one mile of 121 RDF. The nearest residence is located approximately 200 feet northwest of 121 RDF, across SH 121. The residence nearest to the landfill footprint is approximately 500 feet northeast from the waste footprint.

190. At the time the Application was submitted to the Commission, seven industrial/commercial businesses were observed within one mile of the permit boundary, with the closest business to 121 RDF being a trucking company located on CR 416, adjoining the permit boundary. Since the Application was filed with the Commission, the trucking company has closed and NTMWD has purchased the trucking company's property. Other business establishments within one mile include two quarries, a composting operation, and a feedlot.

191. There are no known schools, licensed day care facilities, recreational areas, or sites having exceptional aesthetic qualities within one mile of 121 RDF. Two cemeteries and two churches are within one mile of 121 RDF. The two churches are located more than one-half mile away from 121 RDF.

192. No public use airports exist within a five-mile radius of 121 RDF. A Subtitle D Location Restriction Certification of Compliance for Airports, signed by Pierce L. Chandler, Jr., P.E., is included in Parts I & II, Appendix I & II-E, of the Application.

193. Within one mile of 121 RDF, there are two deep water wells into the underlying Woodbine Group east and southeast of 121 RDF. There are five shallow wells registered within approximately one mile of 121 RDF.

202. No timber rattlesnakes or denning habitat were observed at 121 RDF. Nevertheless, NTMWD proposes mitigation measures to be implemented prior to and during construction and operation of 121 RDF to benefit timber rattlesnakes.

203. The siting and operation of 121 RDF will not result in the destruction or adverse modification of critical habitat for threatened or endangered species, nor will construction and operation of 121 RDF result in a taking of threatened or endangered species.

204. A Subtitle D Location Restriction Certification of Compliance for Endangered Species, signed by Mr. Rudi K. Reinecke, is included in Parts I & II, Appendix I & II-E, of the Application.

205. An on-site investigation for potential jurisdictional wetlands and waters of the United States ("waters of the U.S."), conducted by qualified biologists, identified five potential jurisdictional emergent wetlands on NTMWD Property. The delineated jurisdictional waters of the U.S. and associated wetlands on NTMWD Property total approximately 4.46 acres and 12.04 acres of on-channel impoundments. 36,466.27 linear feet (L.F.) of stream channels were mapped.

206. The USACE concurred with the qualified biologists' identification of jurisdictional waters of the U.S.

207. 121 RDF is designed to avoid and minimize impacts to the delineated jurisdictional waters of the U.S., including impacts on any intermittent stream channels, large on-channel impoundments, and jurisdictional wetlands. A total of 5,798.58 L.F. (0.32 acres) of six different ephemeral stream channels and 0.18 acres of wetlands lie within the waste footprint of the 121 RDF, for a total acreage of 0.50 acres.

217. Surrounding residents are not expected to be disturbed by 24-hour operations at 121 RDF.

J. Permit Duration

218. The ED has not deemed it appropriate for the permit for 121 RDF to be issued for a specified period of time less than the life of the landfill.

219. NTMWD's compliance history in relation to its other landfill sites does not justify a limitation on the permit term for 121 RDF.

220. There is not competent evidence in the record which would establish why problems reflected in NTMWD's compliance history could be avoided or remedied at 121 RDF by the use of a permit of a limited duration.

221. There is not competent evidence in the record to justify limiting the permit for 121 RDF to a period less than the life of the landfill.

K. Traffic Issues

222. Access to 121 RDF is via SH 121. In the vicinity of 121 RDF, SH 121 is a two-lane undivided highway, 45 feet in width with one 12-foot travel lane in each direction, with an all-weather paved surface.

223. Data on vehicular traffic projections are provided in the Application. The roads are capable of handling the volume of traffic associated with 121 RDF through its site life.

224. The entrance to 121 RDF will be along SH 121. The entrance area and approximately 1,000 feet of the permanent interior access road, a two-lane road, will be an all-weather paved surface. The 1,000 feet of all-weather paving of the permanent interior access road will help

231. The design of 121 RDF takes advantage of the natural attributes of the site to protect surface water, which drains into Lake Lavon, a major drinking water supply.

232. 121 RDF will be operated using the "area fill" method with the fill being placed below and above-grade.

233. The landfill sequence of development, as depicted in Part III, Site Development Plan, Attachment 1, Site Layout Plan (Drawings), Drawing 1.3, Sectorized Fill Layout Plan, of the Application, depicts the general progression or sequence of the development and filling of the waste footprint of 121 RDF.

234. 121 RDF design incorporates a Commission-approved Subtitle D standard composite liner. The upper component of the liner system is a 60-mil thick high-density polyethylene (HDPE) flexible membrane liner (FML) to which bentonite has been or is applied to one side. This type of FML also is known as a geosynthetic liner. The soil component of the composite liner system consists of two feet of compacted clayey material with a maximum hydraulic conductivity of 1×10^{-7} cm/sec.

235. Based on site-specific conditions, no special liner conditions are necessary.

236. Landfill markers will be installed in accordance with Commission regulations to clearly mark significant features at 121 RDF, such as the site boundary, buffer zone, easements and rights-of-way, the landfill grid system, and approved Soil and Liner Evaluation Report (SLER) or Flexible Membrane Liner Evaluation Report (FMLER) areas. All markers will be steel or wooden posts and will extend at least six feet above ground level. The markers will not be obscured by vegetation. These markers will be installed at locations visible during operating hours and will be repainted, repaired, or replaced as necessary to retain visibility.

N. Landfill Gas Monitoring and Control

242. The Application contains a Landfill Gas Management Plan (LGMP) to provide management practices for the monitoring and control of landfill gas generated by 121 RDF.

243. Permanent monitoring probes will be used to monitor and to measure any subsurface migration of methane gas. Permanent probes will be installed along the permit boundary of 121 RDF. Site specific information such as geology and soil conditions, "perched" subsurface water, the proximity of on-site and off-site structures, locations of any utility lines, and the depth of waste were considered in designing the permanent monitoring probes.

244. All on-site permanent structures will be equipped with appropriate continuous monitoring devices to detect methane concentrations should they accumulate inside the building. The structures that will be monitored continuously will include the scale house/office and maintenance building, along with any future structures.

245. The LGMP provides for landfill gas monitoring to be performed on at least a quarterly basis as waste is placed within 1,000 feet of the respective probe location along the permit boundary of 121 RDF.

246. The Contingency Plan for 121 RDF outlines the procedures to be followed if the landfill gas readings at any monitoring location exceed 25% of the lower explosive limit (LEL) for facility structures and/or the LEL at the 121 RDF permit boundary.

247. Landfill gas monitoring will continue for thirty years after final closure of 121 RDF is complete.

Estimate for Closure and Post-Closure Care, in accordance with 30 TEX. ADMIN. CODE Chapter 330, Subchapter K.

P. Competency of Applicant

253. The Application contains sufficient information to demonstrate that NTMWD is familiar with the Site Development Plan and the SOP and is aware of all commitments represented in those plans. NTMWD has stated its intention to develop and operate 121 RDF in accordance with the Site Development Plan, the SOP, and the Draft Permit.

254. The Application contains sufficient information to demonstrate that NTMWD has proposed adequate equipment and managerial and financial resources to operate 121 RDF in accordance with the Site Development Plan, the SOP, and the Draft Permit.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the disposal of MSW and the authority to issue Permit No. MSW-2294 under TEX. HEALTH & SAFETY CODE ANN. § 361.061.

2. SOAH has jurisdiction to conduct a hearing and to prepare a Proposal for Decision on contested cases referred by the Commission pursuant to TEX. GOV'T CODE ANN. § 2003.47.

3. The Application was processed and the proceedings herein described were conducted in accordance with applicable laws and regulations of the Commission, specifically TEX. HEALTH & SAFETY CODE ANN. Chapter 361 and 30 TEX. ADMIN. CODE § 80.1 *et seq.*, and SOAH, specifically 1 TEX. ADMIN. CODE § 155.1 *et seq.* All other applicable procedural requirements relative to notice, hearing, and due process of law were met.

13. Part III of the Application meets the applicable requirements of 30 TEX. ADMIN. CODE Chapter 330.

14. Part IV of the Application meets the applicable requirements of 30 TEX. ADMIN. CODE Chapter 330.

15. NTMWD coordinated with all required agencies, officials, and authorities that may have a jurisdictional interest in the Application, including the Federal Aviation Administration (FAA), TxDOT, the Texas Historical Commission (THC), the Texas Parks and Wildlife Department (TPWD), NCTCOG, the Watershed Management Division of the Commission, the U.S. Army Corps of Engineers (USACE), the U.S. Department of Interior, specifically the U.S. Fish and Wildlife Service (FWS), the Collin County Engineering Department, and the EPA.

16. The Applicant has submitted wetland determinations required by applicable federal, state and local laws as required by 30 TEX. ADMIN. CODE §§ 330.51(b)(7) and 330.53(b)(12).

17. The Applicant has submitted Endangered Species Act compliance demonstrations under state and federal laws as required by 30 TEX. ADMIN. CODE §§ 330.51(b)(8), 330.53(b)(13), and 330.55(b)(9).

18. The Applicant has submitted a review letter from the Texas Historical Commission as required by 30 TEX. ADMIN. CODE § 330.51(b)(9).

19. The Applicant has submitted a demonstration of compliance with the regional solid waste plan as required by 30 TEX. ADMIN. CODE § 330.51(b)(10).

29. NTMWD may rely on a Federal Emergency Management Agency (FEMA) floodplain map to comply with 30 TEX. ADMIN. CODE § 330.56(f)(B)(i).

30. The Landfill Gas Monitoring and Control System complies with 30 TEX. ADMIN. CODE § 330.130.

31. NTMWD has demonstrated compliance with the location restrictions set forth in 30 TEX. ADMIN. CODE §§ 330.300 - 330.305.

32. NTMWD has submitted information regarding closure and post-closure which demonstrates compliance with the requirements of 30 TEX. ADMIN. CODE §§ 330.56(l) and (m), 330.253 and 330.254(b).

33. NTMWD has submitted information regarding financial assurance which complies with 30 TEX. ADMIN. CODE §§ 330.52(b)(11) and 330.280-330.286.

34. NTMWD has listed all permits or construction approvals received or applied for under any program listed in 30 TEX. ADMIN. CODE § 305.45(a)(7).

35. The SLQCP complies with 30 TEX. ADMIN. CODE §§ 330.56(j) and 330.205.

36. NTMWD has provided sufficient information concerning its acceptance or disposal of "special waste" as defined by 30 TEX. ADMIN. CODE § 330.2.

37. The Applicant has demonstrated compliance with 30 TEX. ADMIN. CODE § 330.136.

38. If Permit No. MSW-2294 is issued, there is no basis for limiting the permit term to anything less than the life of the site.

47. All court reporting and transcript costs should be assessed to NTMWD.

EXPLANATION OF CHANGES TO ALJ'S PROPOSED ORDER

The Commission rejected the ALJ's recommendation to deny NTMWD's application for Municipal Solid Waste Permit No. MSW-2294. Specifically, the Commission rejected the ALJ's recommendation to deny the permit which was based on the following: 1) the Site Operating Plan did not provide sufficient information regarding the size of equipment and the fire-fighting training requirements; and 2) NTMWD had not presented an acceptable alternative design for its groundwater monitoring system in accordance with 30 TEX. ADMIN. CODE § 330.231(c). The Commission concluded that while case law is currently in flux with regard to the specificity required in site operating plans, NTMWD's Site Operating Plan was reviewed and determined to be technically complete in accordance with agency policy and practice under the rules in place at the time the application was processed and its specificity with regard to size of equipment and training of personnel in fire-fighting techniques is consistent with similar plans approved by the agency. The Commission also concluded that the ALJ's interpretation of its groundwater monitoring system rules was incorrect as a matter of law and policy and the evidence in the record demonstrated that the proposed groundwater monitoring system for 121 RDF is an acceptable alternative design as required under 30 TEX. ADMIN. CODE § 330.231(c). Thus, the Commission adopted with amendments certain findings and conclusions recommended by NTMWD in its exceptions or reply and deleted a finding and conclusion recommended by the ALJ. Specifically, the Commission adopted NTMWD's recommended Findings of Fact 84, 85, and 86, as amended by adding the word "sufficient"; deleted the ALJ's Finding of Fact 169; adopted NTMWD's Findings of Fact 171, 177A, and 177B; deleted the ALJ's Conclusion of Law 45; and adopted NTMWD's Conclusion of Law 6, 21, 23, 26, and 44. The Commission also added to the permit a condition that provides as follows: After the date of issuance of this permit and within 180 days following the TCEQ publishing technical guidance for the development of a Site Operating Plan for a municipal solid waste management facility, the permittee shall review their SOP for compliance with the published

5. If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion will not affect the validity of the remaining portions of the Order.

6. The effective date of this order is the date the order is final, as provided by 30 TEX. ADMIN. CODE § 80.273 and Section 2001.144 of the Administrative Procedure Act, TEX. GOVT. CODE ANN. ch. 2001.

7. Any other requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly set forth herein, are denied.

Issue Date: OCT 20 2003

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

R.B. "Ralph" Marquez, Commissioner

EXHIBIT A

Docket No. 2002-0745-MSW

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

PERMIT FOR MUNICIPAL SOLID WASTE MANAGEMENT SITE issued under provisions of Texas Health & Safety Code Ann. Chapter 361 (Vernon)

Permit No. MSW-2294

Name of Permittee and Site Owner:	North Texas Municipal Water District P.O. Box 2408 Wylie, Texas 75098
Facility Name:	NTMWD 121 Regional Disposal Facility
Classification of Site:	Type I Municipal Solid Waste Management Facility

The permittee is authorized to store, process, and dispose of wastes in accordance with the limitations, requirements, and other conditions set forth herein. This permit is granted subject to the rules and orders of the Commission and laws of the State of Texas and it replaces any previously issued permit. Nothing in this permit exempts the permittee from compliance with other applicable rules and regulations of the Texas Natural Resource Conservation Commission. This permit will be valid until canceled, amended, or revoked by the Commission, or until the site is completely filled or rendered unusable, whichever occurs first.

APPROVED, ISSUED AND EFFECTIVE in accordance with 30 Texas Administrative Code Chapter 330.

ISSUED DATE:

_____

For the Commission

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North Texas Municipal Water District
NTMWD 121 Regional Disposal Facility
Permit Nº MSW-2294

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PART NO. 1

I. Size and Location of Facility

A. This Type I municipal solid waste management facility is located on a 673.49 acre site located approximately 1.7 miles northeast of the intersection of State Highway 121 (SH-121) and Farm-to-Market Road 545 (FM-545), along SH-121 in Collin County, Texas.

B. The legal description is contained in Appendix I&II G of Parts I&II found in Attachment A of this permit.

C. Coordinates and Elevation of Site Permanent Benchmark:

Latitude:	33° 17′ 26.74556″ North
Longitude:	96° 30′ 51.22736″ West
Elevation:	654.5 feet above mean sea level (msl)

The permanent site benchmark will be established prior to construction of the landfill facilities. The permittee shall provide a revision to Attachment 1 of Part III, found in Attachment A of this permit, which shows the location of the benchmark within 30 days after placement of the benchmark.

II. Facilities and Operations Authorized

A. Days and Hours of Operation

The operating hours for receipt of waste and for all landfill related operations at this municipal solid waste facility shall be 24 hours-per-day, Monday through Saturday. The site will be closed on Sunday.

B. Wastes Authorized at this Facility

The permittee is authorized to dispose of municipal solid waste resulting from or incidental to municipal, community, residential, commercial, institutional, agricultural, and recreational activities including street cleanings; rubbish; yard waste; brush; construction-demolition debris from municipal projects; inert material; Class 2 & 3 nonhazardous industrial waste; and certain special wastes that are identified in Part IV found in Attachment A of this permit. The acceptance of the special wastes, indicated in Part IV of Attachment A of this permit, is contingent upon such waste being handled in accordance with 30 Texas Administrative Code (TAC) Section (§) 330.136, and in accordance with the listed and described

procedures in Part IV found in Attachment A of this permit, subject to the limitations and special provisions provided herein.

The permittee is authorized to accept for disposal Class 1 nonhazardous industrial waste only after the approval of the additional design and operational requirements in accordance with 30 TAC §330.137(d), and/or other regulations approved in the future regarding Class 1 nonhazardous industrial waste disposal; and the approval of a Waste Acceptance Plan (WAP) for the Class 1 nonhazardous industrial waste.

C. Wastes Prohibited at This Facility

The permittee shall comply with the waste disposal restrictions set forth in 30 TAC §330.5(e). Class 1 hazardous industrial solid waste, hazardous waste from any source, and any other waste not identified in Section II.B. of this permit shall not be accepted at this facility.

D. Waste Acceptance Rate

Authorized solid waste may be accepted for disposal at this site at an initial rate of approximately, but not limited to, 1700 tons per day. Class 1 nonhazardous industrial waste, if accepted, shall be in accordance with 30 TAC §330.137(f).

E. Waste Volume Available for Disposal

The total waste disposal capacity of the landfill is based upon the information contained in Section 0.5 of Part III found in Attachment A of this permit.

F. Facilities Authorized

The permittee is authorized to operate a Type I municipal solid waste landfill that utilizes a combination of an area excavation fill and aerial fill of the municipal solid waste landfill subject to the limitations contained herein. If Class 1 nonhazardous industrial waste is accepted a dedicated trench will be utilized. All waste disposal activities subject to permitting are to be confined to the following facilities, which shall include disposal units, structures, appurtenances, or improvements: access roads, dikes, berms and temporary drainage channels, permanent drainage structures, landfill gas management system, contaminated water management system, final cover, groundwater monitoring system, landfill liner system, and other improvements. Other improvements within the permitted area that will be allowed include, but are not limited to, a maintenance building, gatehouse/office, scale(s), citizens' drop-off center, material processing facility, composting operation, citizens' reuse area, and a truck wash.

G. Changes, Additions, or Expansions

Any proposed facility changes must be authorized in accordance with Texas Natural Resource Conservation Commission (TNRCC) permit amendment or modification rules, 30 TAC Chapter 305 and 30 TAC Chapter 330.

III. Facility Design, Construction, and Operation

A. Facility design, construction, and operation and/or maintenance must comply with the provisions of this permit; Commission Rules, including 30 TAC §§330.51 through 330.58, 330.62 through 330.64, 330.111 through 330.139, 330.200 through 330.206, 330.230 through 330.242, 330.250 through 330.256, 330.280 through 330.284, and 330.300 through 330.305; special provisions contained in this permit; and Parts I-IV of the application found in Attachment A of this permit, and shall be managed in a manner to protect human health and the environment.

B. The entire waste management facility shall be designed, constructed, operated, and maintained to prevent the release and migration of any waste, contaminant, or pollutant beyond the point of compliance as defined in 30 TAC §330.2 and to prevent inundation or discharge from the areas surrounding the facility components. Each receiving, storage, processing, and disposal area shall have a containment system that will collect spills and incidental precipitation in such a manner as to:

1. Preclude the release of any contaminated runoff, spills, or precipitation;

2. Prevent washout of any waste by a 100-year storm; and

3. Prevent run-on into the disposal areas from off-site areas.

C. The site shall be designed and operated so as not to cause a violation of:

1. The requirements of the Texas Water Code §26.121;

2. Any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements §402, as amended, and/or the Texas Pollutant Discharge Elimination System (TPDES), as amended;

3. The requirements under the Federal Clean Water Act §404, as amended; and

4. Any requirement of an area wide or statewide water quality management plan that has been approved under the Federal Clean Water Act §208 or §319, as amended.

D. All working-face contaminated water shall be handled, stored, treated, disposed of, and managed in accordance with 30 TAC §330.55(b)(6), 30 TAC §§330.56(o)(1) through (4), 30 TAC §330.139, and in accordance with Part III, Attachment 15 found in Attachment A of this permit. Other methods may be considered for approval as a modification to this permit.

E. Temporary erosion and sedimentation control measures shall remain functional until the permanent vegetative cover has become established or as required to control erosion on areas having completed final cover throughout the post-closure care period in accordance with Part III Attachment 13 found in Attachment A of this permit.

F. Storm water runoff from the active portion of the landfill shall be managed in accordance with 30 TAC §§330.55(b)(3) and 330.133(b), and as described in Part III found in Attachment A of this permit.

G. All facility employees and other persons involved in facility operations shall be qualified, trained, educated, and experienced to perform their duties so as to achieve compliance with this permit. The permittee shall comply with 30 TAC §330.52(b)(9) and as described in Part I found in Attachment A of this permit. The permittee shall further ensure that personnel are familiar with safety procedures, contingency plans, the requirements of the Commission's rules and this permit, commensurate with their levels and positions of responsibility, in accordance with Part III and Part IV found in Attachment A of this permit. All facility employees and other persons involved in facility operations, as required, shall be certified and shall obtain the appropriate level of operator certification as required in the statute and applicable regulations.

H. The facility shall be properly supervised to assure that bird populations will not increase and that appropriate control procedures will be followed. Any increase in bird activity that might be hazardous to safe aircraft operations will require prompt mitigation actions.

IV. Financial Assurance

A. General. Authorization to operate the facility is contingent upon compliance with provisions contained within the permit and maintenance of financial assurance in accordance with Subchapter K of 30 TAC Chapter 330 and 30 TAC Chapter 37.

B. Closure Care Cost Estimates. Within 60 days prior to the initial receipt of waste, the permittee shall provide financial assurance instrument(s) for demonstration of closure of the landfill in accordance with 30 TAC §§330.253(d)(6) and 330.281. The closure cost estimate of $4,636,750 (2001 dollars) is based on estimates as described in Part III Attachment 8 and Attachment 12 found in Attachment A of this permit. The financial assurance instrument shall be in an amount that i ncludes the inflation factors for each calendar year since 2001 to the year the permit is issued.

C. Post-Closure Care Cost Estimates. Within 60 days prior to the initial receipt of waste, the permittee shall provide financial assurance instrument(s) for demonstration of post-closure care of the landfill in an amount for the entire landfill facility. The post-closure care cost estimate of $2,990,000 (2001 dollars) is based on estimates as described in Part III Attachment 8 and Attachment 13 found in Attachment A of this permit. The financial assurance instrument shall be in an amount that includes the inflation factors for each calendar year since 2001 to the year the permit is issued.

D. The owner and/or operator shall annually adjust closure and/or post-closure care cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial assurance instrument pursuant to 30 TAC §§330.281 and 330.283, as applicable.

E. Modifications. If the facility's closure and/or post-closure care plan is modified in accordance with 30 TAC §305.70, the permittee shall provide new cost estimates in current dollars in accordance with 30 TAC §§330.253(d)(6), 330.254(b)(3)(D), 330.281, and 330.283, as applicable. The amount of the financial assurance mechanism shall be adjusted within 20 days after the modification is approved. Adjustments to the cost estimates and/or the financial assurance instrument to comply with any financial assurance regulation that is adopted by the TNRCC subsequent to the issuance of this permit, shall be initiated as a modification within 30 days after the effective date of the new regulation.

V. Facility Closure

Closure of the facility shall commence:

A. Upon completion of the disposal operations and the site is completely filled or rendered unusable in accordance with Part III Attachment 7 found in Attachment A of this permit;

B. Upon direction by the Executive Director of the TNRCC for failure to comply with the terms and conditions of this permit or violation of State or Federal regulations. The Executive Director is authorized to issue emergency orders to the permittee in

accordance with §§ 5.501 and 5.512 of the Water Code regarding this matter after considering whether an emergency requiring immediate action to protect the public health and safety exists;

C. Upon abandonment of the site;

D. For failure to secure and maintain an adequate bond or other financial assurance as required; or

E. Upon the permittee's notification to the TNRCC that the landfill will cease to accept waste and no longer operate at any time prior to the site being completely filled to capacity.

VI. Site Completion and Closure

The landfill shall be completed and closed in accordance with 30 TAC §330.250 and the applicable portions of 30 TAC §§330.251 through 330.256. Upon closure, the permittee shall submit to the Executive Director documentation of closure as set out in 30 TAC §330.253. Post-closure care and maintenance shall be conducted in accordance with Part III Attachment 13 found in Attachment A of this permit, for a period of 30 years or as otherwise determined by the Executive Director pursuant to 30 TAC §330.254(a).

VII. Standard Permit Conditions

A. Parts I-IV, as described in 30 TAC §330.51(a), which comprise the Permit Application for Permit Nº MSW-2294 are hereby made a part of this permit as Part No. 2: Attachment A. The permittee shall maintain Parts I-IV and Part V, as described in 30 TAC §330.51(a), at the facility and make them available for inspection by TNRCC personnel. The contents of Attachment A of this permit shall be known as the "Approved Site Development Plan", in accordance with 30 TAC §330.64(a). The Approved Site Development Plan shall include revised pages that correct improper cross references in the text, eliminate incomplete sentences in the text, correct truncated sentences, or correct typographical errors that do not change the intent of the original proposal, that are discovered while printing and copying the "Approved Site Development Plan" copies.

B. Part No. 3: Attachment B, consisting of minor amendments, modifications, and corrections to this permit, is hereby made a part of this permit.

C. The permittee shall comply with all conditions of this permit. Failure to comply with any permit condition may constitute a violation of the permit, the rules of the

Commission, and the Texas Solid Waste Disposal Act and is grounds for an enforcement action, revocation, or suspension.

D. A preconstruction conference shall be held pursuant to 30 TAC §330.64(d) prior to beginning any construction within the permit boundary to ensure that all aspects of this permit, construction activities, and inspections are met. Additional preconstruction conferences may be held prior to the opening of the facility.

E. The permittee shall monitor sediment accumulations in ditches and culverts on a quarterly basis, and remove sedimentation to re-establish the design flow grades on an annual basis or more frequently if necessary to maintain the design flow.

F. The tracking of mud off-site onto any public right-of-way shall be minimized.

G. In accordance with 30 TAC §330.7(a), the permittee shall record in the Deed Records of Collin County, a metes and bounds description of all portions within the permit boundary on which disposal of solid waste has and/or will take place. A certified copy of the recorded document(s) shall be provided to the Executive Director in accordance with 30 TAC §330.7(b).

H. Daily cover of the waste fill areas shall be performed with clean soil that has not been in contact with waste or with an alternate daily cover which has been approved in accordance with 30 TAC §§330.133(c) and 305.70. Intermediate cover, run-on, and run-off controls shall not be constructed from soil that has been scraped up from prior daily cover or which contains waste.

I. During construction and operation of the facility, measures shall be taken to control runoff, erosion, and sedimentation from disturbed areas. Erosion and sedimentation control measures shall be inspected and maintained at least monthly and after each storm event that meets or exceeds the design storm event. Erosion and sedimentation controls shall remain functional until disturbed areas are stabilized with established permanent revegetation. The permittee shall maintain the on-site access road and speed bumps/mud control devices in such a manner as to minimize the buildup of mud on the access road and to maintain a safe road surface.

J. In complying with the requirements of 30 TAC §330.123, the permittee shall consult with the local District Office of the Texas Department of Transportation or other authority responsible for road maintenance, as applicable, to determine standards and frequencies for litter and mud cleanup on state, county, or city maintained roads serving the site. Documentation of this consultation shall be submitted within 30 days after the permit has been issued.

K. The permittee shall retain the right of entry onto the site until the end of the Post-Closure Care Period as required by 30 TAC §330.62(b).

L. Inspection and entry onto the site by authorized personnel shall be allowed during the site operating life and until the end of the Post-Closure Care Period as required by §361.032 of the Health and Safety Code.

M. The provisions of this permit are severable. If any permit provision or the application of any permit provision to any circumstance is held invalid, the remainder of this permit shall not be affected.

N. Regardless of the specific design contained in Attachments A and B of this permit, the permittee shall be required to meet all performance standards required by the permit, the regulations, and as required by local, State, and Federal laws or ordinances.

O. If differences arise between these provisions and incorporated Parts I-IV of Attachment A of this permit, these provisions shall prevail.

P. The permittee shall comply with the requirements of the air permit exemption in 30 TAC §106.534, if applicable, and the applicable requirements of 30 TAC Chapters 106 and 116.

Q. All discharge of storm water will be in accordance with the U.S. Environmental Protection Agency NPDES requirements and/or the State of Texas TPDES requirements as applicable.

R. After the date of issuance of this permit and within 180 days following the TCEQ publishing technical guidance for the development of a Site Operating Plan for a municipal solid waste management facility, the permittee shall review their Site Operating Plan for compliance with the published guidance. The permittee shall provide revisions to Part IV, the Site Operating Plan, found in Attachment A of this permit, as necessary as a modification to Part IV of Attachment A of this permit.

VIII. Incorporated Regulatory Requirements

A. To the extent applicable, the requirements of 30 TAC Chapters 37, 281, 305, and 330 are adopted by reference and are hereby made provisions and conditions of this permit.

B. The permittee shall comply with all applicable Federal, State, and local regulations and shall obtain any and all other required permits prior to the beginning of any on-site improvements or construction approved by this permit.

IX. Special Provisions

A. The permittee shall provide a copy of the instrument used to dedicate the offsite drainage areas to the permitted area for protection from future development. The instrument shall be recorded in the Deed Records of Collin County, and a copy of the recorded instrument certified by the County Clerk of Collin County shall be submitted to be included in the Approved Site Development Plan.

B. The permittee shall consult with the Texas Department of Transportation regarding the possible and future upgrades to the State highway facilities (SH-121 and FM-545) around the landfill site. The permittee shall submit a report of the consultation to include potential impacts to the features of the landfill site and the disposal operations prior to the issuance of the written authorization to accept waste. Revisions to the Approved Site Development Plan will be required if the proposed highway upgrades will necessitate changes to the landfill.

PART NO. 2: ATTACHMENT A.

The "Approved Site Development Plan" effective with the date on the permit.

PART NO. 3: ATTACHMENT B.

Minor Amendments, Modifications, and Corrections may be issued for Permit Nº MSW-2294.

The minor amendment, modification, or correction document prepared and executed with an approval date shall be attached to this attachment. There is no limitation on the number of these documents that may be included in Attachment B of this permit.